REMARKS

After entry of the here-enclosed amendment: Claims 1-2, 4-36 and 38 are pending. Claims 1, 2, 9, 11, 13, 15-17, 25 and 29 are currently amended. Claims 3 and 37 are canceled.

The Examiner has rejected claims 1, 17, 18, 22, 25, 29, 30, 31, 32, 33, 34, 35 under 35 U.S.C. 102(b) over *Grzonka*. The Applicant has described in detail the many distinctions between the embodiments of Applicant's invention and the disclosure of *Grzonka* at pages 8-10 of its previous Amendment 'B' in this application, filed October 22, 2009, which description is hereby incorporated by reference in this Amendment 'C' and will therefore not be repeated. However it is clear in this rejection that the Examiner has made an extremely expansive interpretation of the term "smokable material" as used in the subject claims, so as to encompass both the tobacco rod 3 and one of the filters 1 and 2 of the *Grzonka* reference. It is respectfully submitted that this interpretation of the term "smokable material" is not warranted.

The disclosure of the present application makes it quite clear that the term "smokable material" refers to materials such as tobacco or other materials which are smoking materials that can be pyrolyzed to produce smoke which can then be inhaled by the user (e.g., page 6 lines 16-28 of the present application).

On the other hand a filter is clearly recognized in the art and by the smoking public as a member attached to the mouth end of a smoking article to remove unwanted elements from the smoke that is inhaled by the smoker. Filters are not smokable in the sense that they are not, and not intended to be, pyrolyzed during the process of smoking. Such an interpretation

as the Examiner has made of "smokable" is completely unwarranted in view of the disclosure of the present invention.

However, in order to make the points above perfectly clear, Applicant has amended claim 1 to recite that the "rod" of Applicant's embodiments is made of a smoking material that can be pyrolyzed and inhaled by the smoker.

Accordingly Applicant has clearly distinguished the embodiments of its invention from the *Grzonka* reference, which neither teaches, suggests, or motivates one to provide the structure and results provided by Applicant's embodiments.

The Examiner has further rejected claims 1, 2, 4, 5, 6, 17 under 35 U.S.C. 102(s) over *Oliver*. The rejection over *Oliver* is premised on the same unsupportable basis as discussed above for *Grzonka*, namely that the filter 52 is a "smokable" segment of the *Oliver* device in combination with the tobacco rod 51. Applicant's comments above as to why a filter is not a smokable segment are equally applicable to the *Oliver* reference. Accordingly *Oliver* clearly does not have the at least two rod segments joined as in Applicant's embodiments and as claimed, and the *Oliver* device does not provide the sensorial effects achieved by the embodiments of Applicant's invention. Again, the distinctions between Applicant's embodiments and the *Oliver* disclosure are discussed in detail in Applicant's Amendment 'B' and are hereby incorporated by reference herein. *Oliver* accordingly does not teach, suggest, or motivate one to produce the embodiments of Applicant's invention.

Therefore both the *Grzonka* and *Oliver* references each fail to teach every element of the claims of the present application as is required under 35 U.S.C. 102(b) [M.P.E.P. §2131], and it is respectfully submitted that those rejections should be withdrawn.

The Examiner has further rejected claim 38 under 35 U.S.C. 103(a) over *Oliver* in view of *Nichols*. It should be noted that Applicant is not claiming a smoking article comprising coal. The reference to "the burning coal" in claim 38 refers to the segment of the smoking material which burns as burning progresses along the rod. This segment is commonly referred to as the coal, in the art. The deficiencies of *Oliver* as a reference have been discussed above, and *Nichols* does not cure any of those deficiencies, accordingly it is submitted that this rejection should be withdrawn.

The Examiner has further rejected various claims under 35 U.S.C. 103(a) over *Grzonka* in view of *Oliver* or *Mua* or *Holzner* or *Greene* or *Adams* or *Southwick*. The many deficiencies of both *Grzonka* and *Oliver* as references have been detailed above, and *Oliver* does not cure the many deficiencies of *Grzonka* as a reference, nor are the many deficiencies of *Oliver* as a reference cured by *Grzonka*.

The deficiencies of each of the other references cited in terms of curing the deficiencies of *Grzonka* as a reference have also been discussed in Applicant's Amendment 'B' and are hereby incorporated by reference herein, and will not be repeated here.

Accordingly it is submitted that this Application is now in condition for allowance and such action is respectfully requested. The Examiner is invited to contact the undersigned attorney by phone, if a discussion may serve to advance prosecution.

Respectfully submitted,

/Charles I. Sherman/

Charles I. Sherman, Reg. No. 22,998
MIDDLETON REUTLINGER

Ph (502) 625-2745
2500 Brown & Williamson Tower
Louisville, Kentucky 40202
csherman@middreut.com

Date: July 7, 2010